

**COUNTY COUNCIL**

Jay Furfaro, Chair  
JoAnn A. Yukimura, Vice Chair  
Tim Bynum  
Dickie Chang  
KipuKai Kualii  
Nadine K. Nakamura  
Mel Rapozo



**OFFICE OF THE COUNTY CLERK**

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**Council Services Division**  
4396 Rice Street, Suite 209  
Lihue, Kauai, Hawaii 96766

**MEMORANDUM**

May 24, 2012

TO: Bernard P. Carvalho, Jr., Mayor  
FROM: Jay Furfaro, Council Chair  
SUBJECT: May 23, 2012, COUNCIL MEETING

This is to inform you of the action taken by the Council at its May 23, 2012 Council meeting and any follow-up that was requested:

**CONSENT CALENDAR: RECEIVED FOR THE RECORD.**

C 2012-158 Communication (04/27/2012) from the Director of the Office of Economic Development (OED), transmitting for Council consideration a proposal to establish an Electric Vehicle (EV) Charging Public User Fee, Waiver of the Fee, and Designation/Enforcement of Restricted Parking for Charging Station Use.

C 2012-159 Communication (05/07/2012) from Councilmember Nakamura, providing written disclosure on the record of a possible conflict of interest relating to the Mayor's Office – Boards and Commissions Budget (all line items) in Bill No. 2431 (Proposed Operating Budget for Fiscal Year 2012-2013), because her husband's law firm performs legal services for this Office, and that she is recusing herself from deliberation on these items.

C 2012-160 Communication (05/09/2012) from Council Vice Chair Yukimura, providing written disclosure of a possible conflict of interest relating to "Boys and Girls Club – Waimea" line item contained in "Special Projects" (Account No. 001-0101-512.35-00) in Bill No. 2431 (Proposed Operating Budget for Fiscal Year 2012-2013), due to her position on the Advisory Board, and that she is recusing herself from deliberation on this item.

C 2012-161 Communication (05/16/2012) from Councilmember Chang, transmitting for Council consideration, amendments to Section 19-1.3 and Section 19-1.4, Kauai County Code, 1987, as amended, regulating the use of tobacco products in all County Parks.

C 2012-162 Communication (05/16/2012) from the County Attorney, transmitting for Council consideration, a Resolution authorizing the acquisition by eminent domain of the fee simple interest in lands situate at Waipouli for public use (pedestrian and bicycle path).

COMMUNICATIONS:

C 2012-163 Communication (05/02/2012) from the Director of Personnel Services, transmitting for Council information, the quarterly report relating to vacancies, new hires, transfers, reallocations or promotions approved within the County as of March 31, 2012, pursuant to Section 19 of Ordinance No. B-2011-732 (Fiscal Year 2011-2012). Additional information regarding positions established is also provided. **(Received for the record.)**

C 2012-164 Communication (05/03/2012) from the Mayor, requesting Council approval to accept a donation from Longs Drug Store in Kapa'a of assorted Christmas merchandise valued at \$20,000, which will be used for programs sponsored solely by the County or in partnership with non-profit organizations. **(Approved with thank-you letter to follow.)**

C 2012-165 Communication (05/03/2012) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend \$7,276.00 of Federal Highway Safety Funds from the State of Hawai'i, Department of Transportation, to be used for travel, internet access, and training. **(Approved.)**

C 2012-166 Request (05/16/2012) from the Office of the County Attorney for authorization to expend additional funds up to \$75,000.00 to enable special counsel's continued representation in Michael G. Sheehan vs. County of Kaua'i, et al., Civil No. 10-1-0161 (Agency Appeal), Fifth Circuit Court, currently being appealed by Mr. Sheehan under Intermediate Court of Appeals No. CAAP-11-0000601, Michael G. Sheehan vs. County of Kaua'i, et al., Civil No. CV12-00195 HG BMK, U.S. District Court, and related matters. **(Approved.)**

C 2012-167 Request (05/17/2012) from the Office of the County Attorney for authorization to expend up to \$75,000 for special counsel's continued representation in Kaua'i Springs, Inc. vs. County of Kaua'i, et al., Civil No. 07-1-0182, Kaua'i Springs, Inc. vs. Planning Commission of the County of Kaua'i, Civil No. 07-1-0042, and related matters. **(Failed to be approved.)**

C 2012-168 Request (05/17/2012) from the Office of the County Attorney for authorization to expend up to \$50,000 for special counsel's continued representation in Grant W. Gribble vs. County of Kaua'i, et al., Civil No. 08-1-0231 (Fifth Circuit Court), and related matters. **(Failed to be approved.)**

C 2012-169 Request (05/17/2012) from the Office of the County Attorney for authorization to expend funds up to \$75,000.00 to retain special counsel to represent the County of Kaua'i in Cathy Song, et al. vs. County of Kaua'i, et al., Civil No. 10-1-0171 (Fifth Circuit Court), and related matters. **(Approved.)**

C 2012-170 Communication (05/17/2012) from Councilmember Yukimura, requesting Council approval of her request that the Board of Ethics conduct an investigation of whether violations of the Code of Ethics have occurred in connection with the creation and operation of the POHAKU Program and related matters. **(Deferred to either June 6, 2012 or June 13, 2012 pending availability of recommendations from the County Attorney.)**

CLAIM:

C 2012-171 Communication (05/03/2012) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Richard L. Booth, Sr., for medical expenses (incurred and future), loss of income, and general damages, pursuant to Section 23.06, Charter of the County of Kaua'i. **(Referred to the County Attorney's Office for disposition and/or report back to the Council.)**

COMMITTEE REPORTS:        **APPROVED.**

RESOLUTIONS:

Resolution No. 2012-22, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO DEFINITIONS OF "SHALL," "MUST," AND "MAY" **(Amended to Draft 1 and deferred.)**

Resolution No. 2012-40, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO THE TERMS SET FOR COUNTY COUNCILMEMBERS **(Received for the record.)**

Resolution No. 2012-42, RESOLUTION AUTHORIZING THE ACQUISITION OF THE FEE SIMPLE INTEREST IN LANDS REQUIRED FOR PUBLIC USE, TO WIT: THE PEDESTRIAN AND BICYCLE PATH WHICH CONSTITUTES PART OF PUBLIC PARK SYSTEM, SITUATE AT WAIPOULI, DISTRICT OF KAWAIHAU, COUNTY OF KAUA'I, HAWAI'I, AND DETERMINING AND DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN **(Public Hearing scheduled for June 13, 2012 and referred back to Council.)**

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2436) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 16 AND CHAPTER 17 OF THE KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO ELECTRIC VEHICLE CHARGING STATIONS **(Approved on first reading, public hearing scheduled for June 13, 2012, and thereafter referred to the Economic Development & Renewable Energy Strategies Committee.)**

Proposed Draft Bill (No. 2437) – A BILL FOR AN ORDINANCE TO AMEND SECTION 19-1.3 AND SECTION 19-1.4 OF THE KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO PARKS AND RECREATION **(Approved on first reading, public hearing scheduled for June 13, 2012, and thereafter referred to the Finance/Parks & Recreation/Public Works Programs Committee.)**

K. BILL FOR SECOND READING:

1. Bill No. 2434, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 12 OF THE KAUA'I COUNTY CODE - 1987, AS AMENDED, ENTITLED "BUILDING CODE" **(Approved as amended to Draft 2 on second and final reading.)**

Council Meeting Follow-up Memo to the Mayor

May 24, 2012

Page 4

Thank you for following up as appropriate, including confidential routing to any appropriate parties, and please do not hesitate to contact me or Council Services staff if you need further information. Please note that this memo presents a summary of the action taken, and reference should be made to the official minutes for a complete record.

Copy: Council

via e-mail: KCT Department Heads

KCT CCs

Staff